Priddis Music, Inc. v. Trans World Entertainment Corporation Doc. 50

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PRIDDIS MUSIC, INC.,

Plaintiff,

- against -

TRANS WORLD ENTERTAINMENT CORPORATION,

Defendant.

DEFENDANT'S RULE 26(a)(3) PRE-TRIAL DISCLOSURE

05-CV-0491
DNH/DRH

Defendant and Counter-claim Plaintiff Trans World Entertainment, by its attorneys, Boies, Schiller and Flexner, LLP, and pursuant to Rule 26(a)(3) of the Federal Rules of Civil Procedure, state as follows:

A. TRIAL WITNESSES

Defendant expects to call the following witnesses at trial:

1. Kathy Festa, Albany, New York
2. Sara Cunningham, Albany, New York

Defendant may call the following witnesses:

1. Rick Priddis, Salt Lake City, Utah
2. Elena Price, Salt Lake City, Utah
3. Gavon Barkdull, Salt Lake City, Utah

Defendant reserves the right to call additional witnesses as may be required by facts and information presented at trial.

Dockets.Justia.com

B. WITNESSES TO TESTIFY BY DEPOSITION

Defendant does not anticipate having any witnesses testify by deposition at trial.

C. TRIAL EXHIBITS

1 Trans World Entertainment ("TWEC") Check Overflow Remittance Advice
Priddis000425 – 000460

2 Defendant Counterclaim Plaintiff TWEC's Amended Notice of 30(b)(6) Deposition

3 Plaintiff Counterclaim – Defendant Priddis Music, Inc's. First Amended Response to Defendant/ Counterclaim – Plaintiff's First Set of Interrogatories and First Request for the Production of Documents

4 Purchase Orders (2003-2004)
Priddis007284-007311

5 Summary of charge back memos and returns
Priddis007312 – 007321

6 Summary of quarterly orders
Priddis007326– 007330

7 Summary of %2 discounts
Priddis007331 – 007332

8 Summary of %2 discounts
Priddis007333 – 007334

9 Summary of %2 discounts
Priddis007335 – 007336

10 Summary of credit memos and returns
Priddis007337 – 007364

11 Summary of sales and returns
Priddis007322– 007325

12 Summary of orders and returns
Priddis007365 – 007408

13 Summary of orders and returns
Priddis007409 – 007554

14 Summary of orders and returns
Priddis007453 – 007508

15 Summary of orders and returns
Priddis007509 – 007552

16 May 25, 1999 letter from Richard Priddis to Julee Landau (Buy-Out Agreement)
TWEC000248-000249

17 Complaint filed with United States District Court, Northern District of New York.

18 Plaintiff's Supplemental Disclosures Pursuant to FRCP 26(a)(1)

19 Point of Sale Display Agreement Display
TWEC000247

20 Vendor Approval Request Form (Vendor Agreement)
TWEC000240-000241

21 March 28, 2002 Letter from David Tomlinson to Russ Kellar
Priddis000305-000308

22 June 29, 2003 Program Recap signed by Richard Priddis.
TWEC000173

23 September 27, 2001 TWEC Check Remittance Advice
Priddis000212- 000220

24 November 28, 2001 three page Email printout
Priddis000223-000225

25 Complaint filed by Priddis Music Inc. with District Court, Salt Lake County, State of Utah.

26 August 2002 two page Email printout
Priddis07220-07221

27 October 21, 2002 Priddis letter
Priddis000393

28 November 7, 2002 Priddis letter
Priddis000394

29 November 26, 2001 Trans World Letter
Priddis000222

30 January 28, 2003 Email printout
Priddis000422

31 December 20, 2000 three page document signed by Richard Priddis
Priddis000147-000149

32 April 4, 2003 Priddis program recap letter
TWEC000243

33 April 8, 2003 two page Email printout
Priddis07225-07226

34 March 27, 2003 two page Email printout
Priddis07233-07234

35 July 1, 2003 three page Email printout
Priddis000479-000481

36 January 24, 2003 one page Email printout
Priddis07223

37 October 14, 2002 Priddis letter
Priddis000392

38 March 5, 2004 one page Email printout
TWEC002458

39 January 2004 two page Email printout
TWEC000675-000676

40 Plaintiff's Supplemental Disclosures Pursuant to FRCP 26(a)(1)

41 March 14, 2002 TWEC Check Overflow Remittance Advice
Priddis000278-000304

42 April 30, 2002 TWEC Check Overflow Remittance Advice
Priddis000313-000329

43 July 2003 one page Email printout
Priddis000486

44 September 2003 three page Email printout
Priddis07280-07282

45 October 27, 2003 three page Inventory Report
TWEC000020-000022

46 January 2004 one page Email printout
Priddis000580

47 January 2004 two page Email printout
TWEC000603-000604

48 March 5, 2004 one page Email printout
TWEC002458

49 2003 two page Email printout with attachments
TWEC000351-000355

50 November 2003 two page Email printout
TWEC000139-000140

51 Priddis invoices with amount differences from 8/20/03 statement.
TWEC000558

52. January 16, 2004 two page email printout
TWEC 000468-000469

53. Two page Email printout
TWEC 000485-000486

54. Two page Email printout
TWEC 000489-000490

55. October 9, 2003 one page Email printout
TWEC 000494

56. March 19, 2004 one page Email printout
TWEC 000497

57. Two page Email printout
TWEC 000556 - 000557

58. September 6, 2005 accounts payable inquiry screen print
TWEC 000601

59. October 24, 2003 one page Email printout
TWEC 000658

60. Eight page screen printout from TWEC vendor master file (plaintiff's Exhibit 38 from the deposition of TWEC on August 25, 2006)

61. Two page TWEC memo concerning TWEC deductions (plaintiff's Exhibit 39 from the deposition of TWEC on August 25, 2006)

63. Five page TWEC document relating to advertising fee (plaintiff's Exhibit 45 from the deposition of TWEC on August 25, 2006)

64. Two page Email printout
TWEC 00675-00676

65. March 5, 2004 one page Email printout
TWEC 002458

66. April 4, 2003 one page Priddis letter
TWEC 00243

67. Two page Email printout
TWEC 00139-00014

68. One page memo referring to August 20, 2003 statement
TWEC 00558

69. Five page document (including three page spreadsheet)
TWEC 00351 - 00355

70. January 28, 2004 two page Email printout
TWEC 00603- 000604

71. May 25, 1999 two page letter
TWEC 000248 -000249

72. Purchase order related documents
Priddis 000595 - 001028

73. Charge back related documents
Priddis 001029 - 002398

74. Proof of delivery related document
Priddis 002399 - 003359

75. Actual return related documents.
Priddis 003360 - 005755

76. Check edit/check advice
TWEC 000001 -000008

77. September 23, 2003 Email printout
TWEC 000009

78. One page summary of TWEC payments to Priddis
TWEC 000010

79. March 15, 2004 screen print of TWEC records
TWEC 000011.

80. August 18, 2003, September 29, 2003 and October 27, 2003 sales report
TWEC 000020-000022.

81. February 3, 2004 check edit/check advice prepared by TWEC
TWEC 000023- 000058.

82. February 3, 2004 check edit/check advice prepared by TWEC
TWEC 000059- 000093.

83. February 5, 2003 Email printout
TWEC 000094.

84. Two page TWEC document
TWEC000095 - 000096.

85. March 18, 2004 TWEC Stock ledger inquiry
TWEC 000101

86. Bill of Lading Forms
TWEC000102 - 000106

87. Two page TWEC summary
TWEC 000099 – 000100

88. July 22, 2004 two page Email printout
TWEC 000107 – 000108

89. July 8, 2004 screen printouts for accounts payable inquiries
TWEC 000112 – 000136

90. Email printouts
TWEC 000137 – 000144

91. One page reconciliation document
TWEC 000145

92. April 30, 2004 two page reconciliation document
TWEC 000146 – 000147

93. August 9, 2004 two page open payables report
TWEC 000148 – 000149

94. January 7, 2003 two page Email printout
TWEC 000159 - 000160

95. Two page vendor approval request form
TWEC 000163 - 000168

96. TWEC report for Check No. 859435
TWEC 000199 - 000207

97. TWEC report for Check No. 859435
TWEC 000209 – 000218

98 TWEC report of proof of delivery
TWEC 000219 – 000239

99. Two page Email printout plus two page reconciliation report
TWEC 000260 – 000263

100 August 20, 2003 three page spreadsheet
TWEC 000348 - 000350

101. One page Email
Priddis 07272

102. One page Email printout
Priddis 07223

103. Communications and orders related to orders and returns
Priddis 000001- 000594; Priddis 007220-007283

104. Priddis Interrogatory Responses

Defendant reserves the right to offer such other and further exhibits as may be needed depending upon the proof at trial.

Dated: September 15, 2006

BOIES, SCHILLER & FLEXNER LLP

By: ______________________

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